

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
FOSSIL EPC LTD.**

**TRUSTEE'S REPORT TO CREDITORS**

**APRIL 4, 2022**

**BACKGROUND AND INSOLVENCY EVENTS**

This report has been prepared by The Bowra Group Inc., in its capacity as Licensed Insolvency Trustee (the "**Trustee**") of the bankrupt estate of Fossil EPC Ltd. (the "**Company**" or "**Fossil**") to provide preliminary information to the creditors as at April 4, 2022.

The Company was incorporated in Alberta on March 10, 2009, and the Company's sole director is Mr. Robert Lodge ("**Lodge**"). The Company was in the business of engineering, procurement, construction, and management services, primarily serving the oil and gas industry. Operations were conducted in Nisku, Alberta.

We understand the Company ran into financial difficulties as a result of the downturn in the Alberta economy. Decreased revenue led to decreased cash flow and difficulty managing current obligations. As a result, Fossil was noncompliant with the covenants stipulated by its senior secured creditor, RBC Royal Bank of Canada ("**RBC**"). In September 2018, RBC enforced its security by garnishing the Company's bank account and demanding all deposits be applied towards the loan balance. Simultaneously, we understand the Company fell behind in their payroll source deductions and sales tax remittances to Canada Revenue Agency ("**CRA**"). This coupled with litigation costs related to a previous landlord claim led to the Company ultimately making an assignment into Bankruptcy on March 16, 2022. The Bowra Group Inc. consented to act as the Trustee.

## FINANCIAL SITUATION

Table 1 summarizes the management prepared draft income statement for the fiscal years ending December 30, 2020, December 31, 2021, and March 16, 2022, respectively.

	Year Ended Dec. 31, 2020 (\$000's)	Year Ended Dec. 31, 2021 (\$000's)	Period Ended Mar. 16, 2022 (\$)
Sales	1,068	581	-
Cost of sales	(711)	(328)	-
Gross profit	358	253	-
Operating and admin expenses	(789)	(639)	(250)
Other income	197	308	-
<b>Net Income (loss)</b>	<b>(235)</b>	<b>(78)</b>	<b>(250)</b>

The Company incurred net losses of \$235,000 and \$78,000 in the fiscal years ended December 31, 2020, and December 31, 2021, respectively, and a net loss of \$250 for the period ended March 16, 2022. The Company generally ceased all operations in mid 2021.

The Trustee understands that other income earned in the fiscal years ended December 31, 2020, and December 31, 2021, relates to government subsidies provided by the CRA in response to the Covid-19 global pandemic.

Table 2 summarizes the management prepared draft balance sheet as at December 31, 2020, December 31, 2021, and March 16, 2022, respectively.

Table 2

	As at Dec. 31, 2020 (000's)	As at Dec. 31, 2021 (000's)	As at Mar. 16, 2022 (000's)
Cash and cash equivalent	88	0	0
Accounts receivable	81	0	0
	<b>168</b>	<b>0</b>	<b>0</b>
Capital assets	161	161	161
Advances from related parties	385	449	437
	<b>713</b>	<b>610</b>	<b>598</b>
Trade and other payables	739	695	683
GST and payroll liabilities	1,115	1,133	1,133
	<b>1,853</b>	<b>1,828</b>	<b>1,816</b>
Non-current Liabilities	170	170	170
	<b>2,023</b>	<b>1,998</b>	<b>1,986</b>
Shareholder's equity (deficit)	(1,310)	(1,387)	(1,388)
	<b>713</b>	<b>610</b>	<b>598</b>

We note that all capital assets were transferred to a related Company in April 2021. The transfer was never recorded in the Company's management prepared financial statements and as at December 31, 2021, the capital asset balance should be NIL. The transfer of capital assets is discussed later in this report.

Advances from related parties primarily include an amount owing from Fossil Energy Canada Inc. related to an investment in a project in China that has been substantially delayed due to the global pandemic. The balance is considered doubtful and is discussed later in this report.

### **CONSERVATORY AND PROTECTIVE MEASURES**

The Trustee understands the Company generally ceased operations in mid 2021 and all employees were terminated prior to the date of Bankruptcy. There are no outstanding salaries, wages, vacation pay, or severance amounts owed to employees. Prior to the date of Bankruptcy, the Company prepared the 2021 T4s and ROEs and provided copies to all employees.

The Company leased space municipally described as 1805 8<sup>th</sup> Street in Nisku, Alberta. We understand the Company vacated the leased space prior to the date of Bankruptcy as such the Trustee did not take possession of the premises.

The Trustee sent correspondence to Toronto Dominion Bank of Canada (“TD”) requesting the Company’s bank accounts be frozen and any funds remaining be forwarded to the Trustee. We understand the Company’s bank account held a balance of \$92. TD has confirmed the account has been frozen and the funds will be remitted to the Trustee in due course.

Based on discussions with the Company’s management, the Trustee does not believe there are any other assets of the Company.

### **BOOKS AND RECORDS**

The Trustee has taken possession of certain books and records of the Company, including financial statements, bank statements, and general ledgers.

The Trustee is in the process of obtaining access to the tax records of the Company through the authorized representative process of the CRA.

### **SECURED CREDITORS**

Table 3 provides a listing of the secured claims, according to the books and records of the Company and the Personal Property Registry, that may have a priority over the claims of unsecured creditors.

		<b>Table 3</b>
<b>Creditor</b>	<b>Assets Secured</b>	<b>Estimated Claim (\$000's)</b>
Canada Revenue Agency	Deemed Trust - all present and after-acquired property	596
Business Development Bank of Canada	General Security Agreement - all present and after-acquired property	31
Fossil Group Ltd.	General Security Agreement - all present and after-acquired property	7
Sterling Crane/Procrane Inc.	General Security Agreement - all present and after-acquired property	Unknown

CRA has a priority deemed trust claim for unpaid source deductions in the approximate amount of \$596,433. The Trustee is working with CRA to complete a trust audit and finalize the claim amount. Any amounts owing to the CRA for source deductions would be considered a deemed trust property claim which could rank ahead of all other creditors.

Business Development Bank of Canada (“**BDC**”), Fossil Group Ltd. and Sterling Crane/Procrane Inc. all hold registered general security agreements granting them a priority charge over all the assets and after-acquired property of the Company. Based on discussions with management, the Trustee understands that the balance owed to BDC in the approximate amount of \$31,000 and may be assumed by a related company which guaranteed the loan.

### **UNSECURED CREDITORS**

Based on the Company’s books and records, the Trustee is aware of four unsecured creditors. Table 4 outlines the major unsecured creditors.

		<b>Table 4</b>
<b>Creditor</b>	<b>Estimated Claim (000's)</b>	
Canada Revenue Agency	494	
R.I.I. Equity Partners Inc.	156	

The Trustee understands the Company owes approximately \$493,852 to the CRA in relation to pre-filing GST arrears and non deemed trust payroll deductions. The CRA's claim for unpaid GST and non deemed trust payroll deductions would rank as an unsecured claim in the Bankruptcy.

### **IDENTIFICATION AND VALUATION OF ASSETS**

As at the date of bankruptcy the Company had amounts owing from related parties of approximately \$437,000. This balance is composed of a large amount due from Fossil Energy Canada Inc. related to an investment in a project in China that has been substantially delayed due to the global pandemic and three smaller amounts totalling approximately \$14,000 from related companies that have been since wound up. The entire related company receivable balance is considered doubtful.

Based on discussions with management and review of the books and records, Fossil has no assets available for realization by the Trustee. Accordingly, we estimate there will be no recovery to the unsecured creditors.

### **LEGAL ACTIONS**

The Trustee is aware of the following legal actions:

The previous landlord, R.I.I. Equity Partners Inc. (the "**Landlord**"), has filed a Statement of Claim for breach of the lease agreement between the Landlord and the Company in the amount of \$156,267. As a result of the Bankruptcy, the Landlord's claim against the Company is stayed. The Trustee does not intend to continue this action and the Landlord may prove a claim in the bankruptcy.

### **REVIEW OF RECORDS & CONDUCT OF THE DEBTOR**

The Trustee has reviewed the books and records of the Company that were made available, including bank statements and financial statements for the period of January 1, 2021, to March 16, 2022. The Trustee did not identify any transactions that could be regarded as preference payments in accordance with the BIA.

As noted earlier, in April 2021 the Company transferred capital assets consisting of trailers, vehicles, and miscellaneous tools, to a related Company, Fossil Energy Canada Inc, in exchange for a reduction of the intercompany receivable. The value of the transferred assets was estimated at \$15,000. While the transaction could be regarded as a transfer undervalue, given the nature, age, and value of the assets the Trustee is not recommending any further action by the estate.

## **CONCLUSION**

We estimate the secured creditors will suffer a substantial shortfall on their claims. Therefore, the Trustee does not believe there will be any recovery to the unsecured creditors.

### **The Bowra Group Inc.**

Licensed Insolvency Trustee of Fossil EPC Ltd.

Per: 

Kristin Gray, CPA, CA, CIRP, LIT